

### **REMARKS**

Claims 1-6 are pending in the subject application. Favorable reconsideration in light of the remarks which follow is respectfully requested.

#### 35 U.S.C. §102 Rejections

Claims 1-6 have been rejected under 35 U.S.C. §102(d) as being barred by applicant's Japanese Patent JP 11-170441 issued on June 29, 1999. The Office asserts that:

This U.S. Patent application filed February 16, 2000 is a CIP of U.S. Patent application 09/207,709 filed December 9, 1998, which claims foreign priority of Japan 9-354027 filed December 9, 1997. The U.S. Patent application 09/207,709 was abandoned on January 8, 2000 prior to the filing date of this application. Therefore this application cannot claim foreign priority of Japan 9-354027, which is now Japan Patent JP 11-170441, issued June 29, 1999.

Applicants respectfully traverse this rejection.

Applicants respectfully submit that Japanese "Patent" JP 11-170441 is not a patent, but, rather, is a laid-opened publication (Japanese Kokai, corresponding to §122). Applicants submit herewith a copy of the English Abstract of JP 11-170441. As clearly shown, under "Legal Status", there is no date indicated for "Date of request for examination". In other words, the request for examination has not yet been filed for this application (JP 09-354027, laid open No. 11-17041). Thus, the application has not been examined nor granted at this time.

Further, regarding U.S. Patent Application 09/207,709, the Office notes that this application was abandoned on January 8, 2000. Applicants respectfully submit that in U.S. Patent Application 09/207,709, a first non-final Office action was mailed by the U.S.P.T.O on October 7, 1999. On February 16, 2000, Applicants filed a Continuation-in-Part (CIP) Application. However, Applicants unintentionally did not file a petition and fee for a two month extension of time so as to maintain the copendency between U.S. Patent Application 09/207,709 and the present CIP Application. Upon receipt and review of the present April 14, 2003 Office action, in which Applicants discovered for the first time that U.S. Patent Application 09/207,709

became abandoned on January 8, 2000, Applicants reviewed the files and discovered that the petition and fee for a two month extension of time was inadvertently not filed in U.S. Patent Application 09/207,709 when the present CIP Application was filed. Thus, Applicants have filed a Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b) along with the proper fee, reply (petition and fee for extension of time) and statement that the entire delay was unintentional (a copy is enclosed herewith). Applicants further note that since U.S. Patent Application 09/207,709 was filed after June 8, 1995, a Terminal Disclaimer is not required in this application.

Accordingly, upon revival of U.S. Patent Application 09/207,709, Applicants respectfully submit that the present application will properly claim priority from U.S. Patent Application 09/207,709 filed December 9, 1998, which, in turn, claims foreign priority of Japan 9-354027 (laid open No. 11-17041) filed December 9, 1997.

In view of the above, it is respectfully submitted that, upon revival of U.S. Patent Application 09/207,709, the present application will not be barred by Applicants' Japanese application 9-354027 (laid open No. 11-17041). Reconsideration and withdrawal of the rejection is respectfully requested.

### **CONCLUSION**

Reconsideration and allowance of claims 1-6 is respectfully requested in view of the foregoing discussion. This case is believed to be in condition for immediate allowance. Applicant respectfully requests early consideration and allowance of the subject application.

If for any reason a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, you are hereby authorized and requested to charge Deposit Account No. **04-1105**.

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Should the Examiner wish to discuss any of the amendments and/or remarks made herein, the undersigned attorney would appreciate the opportunity to do so.

Respectfully submitted,



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